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BEING THE
FIRST CALLED SESSION
OF THE
THIRTY-THIRD LEGISLATURE

BEGUN AND HELD AT

The City of Austin, July 21, 1913, to August 19, 1913



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RELATING TO SEATING OF A. C.
OLIVER AS SENATOR-ELECT
FROM FIRST DISTRICT.

The Chair had the following telegram read to the Senate:

New Boston, Tex., Aug. 4, 1913.

President of Senate, Austin, Texas:

Have canvassed returns First Senatorial District. A. C. Oliver plurality twenty-four votes. Certificate of election follows. C. A. Wheeler gives notice of contest.

LEE TIDWELL,
County Judge, Bowie county.

The above message was read, and Senator Watson offered a resolution, but pending discussion withdrew same.

The Chair here announced the following petition on part of Mr. Wheeler and directed same to be printed in the Journal; and referred same to Committee on Privileges and Elections.

Austin, Texas, August 4, 1913.

To Hon. A. C. Oliver:

You will please take notice, that it is my intention and purpose to and I shall contest your right to the office of Senator from the First Senatorial District of the State of Texas, it being my contention that you were not legally elected and have not been legally elected to said office at the election held throughout said district on July 19, 1913, but that I was, at said election, legally elected to the office of Senator from the First Senatorial District of Texas.

I herewith hand to you a copy of my original petition, upon which I base my said contest and upon which I shall offer evidence.

Respectfully,
(Signed) C. A. WHEELER.

I hereby certify that on the 4th day of August, A. D. 1913, I delivered to A. C. Oliver in person in the city of Austin, Travis county, Texas, a true copy of the above and foregoing notice, together with a true copy of the petition mentioned in said notice.

(Signed) C. A. WHEELER.

In re Contest of the Election of A. C. Oliver as Senator from the First Senatorial District of Texas.

To the Honorable the Senate of Texas:

Your petitioner, C. A. Wheeler, ap-

pears herein for the purpose of contesting before this Honorable Body the election of A. C. Oliver as Senator from the First Senatorial District of Texas, and as his grounds for said contest doth allege and is prepared to prove the following:

1. Your petitioner and the said A. C. Oliver and Lewie H. Henry, Esq., were candidates in a special election called by the Governor of Texas to be held in the various voting places in the First Senatorial District of Texas on the 19th day of July, 1913, to fill the vacancy occasioned by the resignation of Horace W. Vaughan from this body. Said election was called, and under the law should have been conducted in accordance with the election laws of the State of Texas, and your petitioner was entitled to have his candidacy tested and decided in accordance with the terms and provisions of said laws.

2. Among the voting places in said district is Douglasville, in the county of Cass, said town being the home of A. C. Oliver, contestee herein. There were 138 votes polled at said box during the said election, of which number 118 were counted by the judges for the contestee herein and 18 for your petitioner and 2 for Lewie H. Henry. With the exception of the said box, your petitioner in said district received 1667 votes and contestee herein received 1591 votes and Lewie H. Henry received 1187 votes. Your petitioner, therefore, unless defeated by the votes cast in the said Douglasville box, received a majority of the legal votes cast in said election, and has been duly and legally elected to the office of Senator from said district.

3. Your petitioner shows that R. B. McWhorter was the presiding judge and B. B. Webster and were the other judges at said box; that the votes cast in the said Douglasville box were not legal votes, and none of same should be counted under the law, either for or against any of the candidates in said election, because:

(a) Neither the said presiding judge nor any of the other judges before opening the polls or at any time thereafter until eighty votes had been received and cast took the oath of affirmation as officers of election and as provided by law. Your petition is unable to give the names of the voters who cast the first eighty votes counted or for whom they were voted, for want of knowledge,

but he avers the facts to be that the votes cast in said box numbered one to eighty, inclusive, were cast at a time before the judges had taken the oath of office and when, under the law, they had no right to receive or count them.

(b) Among the votes cast in said box and accepted by the judges and counted in the result were the votes of a large number of men, many of whom were negroes, who were not entitled to vote under the law, and whose votes were illegal under the law, because they had not paid their poll tax for the year 1912 prior to the 1st day of February, 1913, and were not exempt from the payment of such poll tax. Petitioner is unable to give the names and number of said illegal voters for want of knowledge, but he says that a comparison of the list of legal voters of Cass county, Texas, at said Douglasville box who had paid their poll tax, or were exempt from such payment, with the poll list made out at said election will disclose their names.

(c) The following persons, among others, voted at said box: J. P. Swint, A. O. Carlo, Boss Young, W. J. Hendrix, J. C. Cherry, J. M. Dupree, R. H. Williams, T. S. Allen, L. G. Dupree, Frank Dickerson, W. J. L. Heath, J. M. Ormand, George Young, Nelson Frederick, G. W. Smith, Ena Swint, Dud Gray, Leona Gray, J. T. Blalock, Felix Vaden, A. S. Pate, W. R. Warren, Freeman Washington, U. Samuel, W. J. McCall, Will Edwards, Will Legg, Eugene Young, R. B. McCoy, J. M. McCoy and Allen Frederick.

Some of said men are among those referred to in the preceding subdivision as being unauthorized to vote: but as regards all of said list, your petitioner says that none of the names of the persons mentioned above appear upon the list of the voters at said voting box who had paid their poll tax for the year 1912 prior to February 1, 1913, or were exempt from such payment, as your petitioner is informed and believed. That L. G. Dupree, W. J. L. Heath, G. W. Smith and Felix Vaden voted at said box and at the time resided at and in another voting precinct other than the Douglasville precinct, and were not legal voters at said Douglasville voting box, and at the time poll tax receipts were issued to them they each resided in precincts other than said Douglasville precinct. Your petitioner avers upon information and belief that all of said men voted for contestee herein and against your petitioner.

(d) The said officers of the election and each of them at the noon hour on the said election day, to wit, July 19, 1913, left the voting place, the box containing the ballots that had been cast, the unused ballots, and the entire equipment and supplies and paraphernalia of the election in the room where said election was held for a period of one hour or more, locking the door to same, during which they partook of refreshments. Said refreshments were taken during the hours provided by law for voting and before the canvass of the votes had been taken, but they were not taken at the said polling place and were not taken in view of the ballot box, but they were taken at remote and distant places out of the view and entirely removed from said box and voting place; nor did the said judges partake of refreshments at the same place, but repaired to their several homes and assembled at a later time and reopened the voting place.

(e) When the ballots thus cast had been counted, the managers of the said election did not in person make out triplicate returns of the same and certify them to be correct and sign them officially in the manner provided by law. The presiding judge at said box did not sign said return at all, but gave B. B. Webster, one of the judges, authority to sign his name, and the signature that appears upon said returns on which the certificate of contestee's election was issued is not the genuine signature of R. B. McWhorter, but was signed by B. B. Webster at the request and instance of R. B. McWhorter during his absence.

(f) None of the ballots cast and counted in said voting box were signed by the presiding judge thereof, nor were they, as petitioner is informed and believes, numbered. He makes the charge upon information and belief as to the numbering of said ballots, but alleges the fact to be that not one of the ballots used in said election at said box bore the signature of the presiding judge, R. B. McWhorter, and that all of the ballots so cast, despite the fact that they were not signed as provided by law, and despite the fact that the law expressly provides that the judges shall count no ballots which do not bear the signature of the presiding judge or which are unnumbered, all of said ballots were counted with the result that 118 of same were counted as aforesaid in favor of contestee herein and 18 in favor of your petitioner.

4. Your petitioner shows that for the reasons mentioned in the preceding paragraph all of the ballots cast in the said Douglasville box were illegal and unlawful votes and should not have been counted for any of said candidates. That except for such unlawful and illegal votes, your petitioner has a majority of the votes cast by the qualified voters of the First Senatorial District of Texas, and under the law is entitled to a seat in this body and all the privileges and emoluments and benefits of the said office.

5. He therefore files this, his contest, before this honorable body, attaching hereto the certificate of Hon. Lee Tidwell, county judge of Bowie county, Texas, showing that the 4th day of August, 1913, is the return day of the said election; that is to say, the day on which the votes in said election were counted, that a certificate of election was issued to contestee herein upon said date. Your petitioner also attaches a copy of a notice of this contest served upon the contestee herein, on the day of August, 1913, showing your petitioner's purpose and intention to contest the election herein referred to, which notice was delivered to contestee in person.

6. Wherefore, your petitioner prays that this honorable body hear this contest in the manner provided by law, and that he be declared entitled to a seat in this honorable body as Senator from the First Senatorial District of Texas, and be declared duly and legally elected as such.

(Signed) C. A. WHEELER.
Contestant.

I, C. A. Wheeler, contestant named in the above and foregoing petition, state, upon my oath, that the facts alleged in said petition are true to the best of my knowledge and belief.

(Signed) C. A. WHEELER.

Sworn to and subscribed before me this 4th day of August, A. D. 1913.

(Signed) O. W. HARDY.

(Seal) Notary Public in and for
Travis County, Texas.

In Re Contest of C. A. Wheeler of the
Election of A. C. Oliver as Senator
From the First Senatorial
District.

Original Petition of C. A. Wheeler.

Filed in the Senate of Texas, this 4th day of August, 1913, at 10:40 o'clock a. m.

W. V. HOWERTON,
Secretary of the Senate.

August 4, 1913.

7—S

Referred to Committee on Privileges and Elections.

RELATING TO SEATING HON. A. C.
OLIVER AS MEMBER FROM
THE FIRST DISTRICT.

The Chair stated that the certificate of election of Hon. A. C. Oliver as Senator-elect from the First Senatorial District had been filed with the Senate, the certificate being as follows:

The State of Texas,
Department of State.

I, F. C. Weinert, Secretary of State of the State of Texas, do hereby certify that Judge Lee Tidwell, county judge of Bowie county, Texas, has certified to this department the returns of the special election held on July 19, 1913, in the First Senatorial District of the State of Texas to select a Senator from the First Senatorial District to succeed the Hon. Horace W. Vaughan, resigned. That the result of said election shows that Hon. A. C. Oliver received 1707 votes; Hon. C. A. Wheeler 1683 votes, and Hon. L. H. Henry 1198 votes; and I do hereby certify that Hon. A. C. Oliver, having received the largest number of votes cast for any one candidate, according to the returns made to this department, is the duly elected and accredited Senator from the First Senatorial District, having received a ma-

jority of twenty-four votes over the next highest candidate.

In testimony whereof I have hereunto signed my name officially and caused to be impressed hereon the seal of State at my office in the city of Austin, Texas, this the 6th day of August, A. D. 1913.

(Seal) F. C. WEINERT,
Secretary of State.

Senator Watson requested unanimous consent that Mr. Oliver be seated as a member of the Senate from the First Senatorial District.

Senator Townsend objected.

Senator Brelsford offered the following simple resolution:

Whereas, Hon. C. A. Wheeler, of Texarkana, Texas, has filed a contest with this body contesting the election of the Hon. A. C. Oliver as Senator from the First Senatorial District of Texas, and as a basis for said contest alleges matters of serious irregularity in said election, of such a nature demanding an immediate investigation by this body; and

Whereas, It is the sense of this body that justice be meted out to the parties and that such person be seated who may have been elected by the qualified voters of said First Senatorial District of Texas; therefore, be it

Resolved by the Senate, That the notice and statement of contest by the Hon. C. A. Wheeler and the other papers pertaining thereto be referred at once to the Committee on Privileges and Elections of the Senate, and that said committee proceed without delay to fix the time for a hearing of said contest, and after due notice to the parties thereto investigate the issues between said parties, hearing all the legal evidence that may be presented to said committee and at the earliest practicable date report their conclusion of law and fact in respect to said case to this body, accompanied by all the papers in the case and the evidence taken therein, with such recommendations as may to them seem proper, to the end that the Senate may act upon this contest at the very earliest practicable date possible.

Signed—Lattimore, Brelsford, Johnson, Cowell, Gibson, Conner, Townsend, Westbrook, Darwin, Wiley, Taylor, Greer, Warren, McNealus, Collins.

Senator Watson offered the following amendment to the resolution:

Amend the resolution by adding at the end of same the following: "but that the certificate of the Hon. Lee Tidwell, county judge of Bowie county, and re-

turning officer for the First Senatorial District, as shown by the Secretary of State's certificate of election now on file in this office showing that Hon. A. C. Oliver received a plurality of all the votes cast in the election held in said district on July 19, 1913, and was therefore elected to the office of Senator from said district; therefore, be it further

Resolved, That the said A. C. Oliver be at this time administered the oath as such Senator; but the administration of such oath shall in no way affect or prejudice the rights of the contestant, Hon. C. A. Wheeler, and said A. C. Oliver shall hold said office only pending the result of said contest, and without prejudice to the rights of any contestant.

Signed—Watson, Terrell, Nugent, Hudspeth.

The amendment was read, and Senator Brelsford moved to table the same, but pending discussion the motion was withdrawn.

RELATING TO SEATING HON. A. C. OLIVER AS MEMBER FROM THE FIRST DISTRICT.

Action recurred on the pending business, the matter of seating Hon. A. C. Oliver as member from the First District, the question being on the amendment by Senator Watson to the resolution by Senator Brelsford.

Pending discussion, Senator Morrow offered the following substitute for the amendment and resolution:

As a substitute for the resolution and amendment, I move that Dr. Oliver be seated and the contest be heard next Friday.

Senator Townsend moved to table the substitute motion.

Senator Lattimore moved the previous question on the substitute, the amendment and the resolution, which motion being duly seconded, was so ordered.

Action recurred on the motion to table the substitute motion by Senator Morrow, and the same prevailed by the following vote:

Yeas—14.

Brelsford.	Johnson.
Collins.	Lattimore.
Conner.	Taylor.
Cowell.	Townsend.
Darwin.	Warren.
Gibson.	Westbrook.
Greer.	Wiley.

Nays—12.

Astin.	Morrow.
Bailey.	Nugent.
Clark.	Real.
Harley.	Terrell.
Hudspeth.	Watson.
McNealus.	Willacy.

Present—Not Voting.

McGregor.

Absent—Excused.

Carter.

Action then recurred on the amendment by Senator Watson, and the same was lost by the following vote:

Yeas—11.

Astin.	Nugent.
Bailey.	Real.
Clark.	Terrell.
Harley.	Watson.
Hudspeth.	Willacy.
McNealus.	

Nays—14.		Gibson.	Westbrook.
Brelsford.	Lattimore.	Greer.	Wiley.
Collins.	Morrow.	Johnson.	
Conner.	Taylor.		Nays—12.
Cowell.	Townsend.	Astin.	Morrow.
Gibson.	Warren.	Bailey.	Nugent.
Greer.	Westbrook.	Clark.	Real.
Johnson.	Wiley.	Harley.	Terrell.
		Hudspeth.	Watson.
	Absent—Excused.	McNealus.	Willacy.
Carter.			
	PAIRED.		Absent—Excused.

Senator Darwin (present), who would vote "nay," with Senator McGregor (absent), who would vote "yea."

Action recurred on the resolution, and the same was adopted by the following vote:

Yeas—13.

Brelsford.	Lattimore.
Collins.	Taylor.
Conner.	Townsend.
Cowell.	Warren.

Carter.

PAIRED.

Senator Darwin (present), who would vote "yea," with Senator McGregor (absent), who would vote "nay."

Senator Townsend moved to reconsider the vote by which the resolution was adopted and lay that motion on the table.

The motion to table prevailed.

SIMPLE RESOLUTION.

By Senator Watson:

Be it resolved by the Senate. That for the purpose of expediting the contest pending for a seat in this body from the First Senatorial District, that the hearing thereof set for this date be postponed until tomorrow, Tuesday, August 12, at 10 a. m.

Second. That all the boxes, ballots, ballot boxes, tally sheets and all other records that have been required to be brought before the Committee on Privileges and Elections be and the same are hereby directed by the Senate to be turned over into the custody of the Sergeant-at-Arms of the Senate for the inspection and use of Hon. W. S. Thomas and Hon. Rollin Rodgers, attorneys, respectively, of the contestant and contestee, and that the said attorneys be requested to go through said records and eliminate from the hearing in said con-

test all matters upon which there is no controversy and upon which they agree.

WATSON,
BRELSFORD.

The resolution was read and adopted.
Morning call concluded.

REPORT OF COMMITTEE ON PRIVILEGES AND ELECTIONS.

Committee Room,
Austin, Texas, August 13, 1913.

Hon. Will H. Mayes, President of the Senate.

Sir: We, a majority of your Committee on Privileges and Elections, to whom was referred the contest of C. A. Wheeler vs. A. C. Oliver for a right to a seat in the Senate of Texas, under the provisions of a resolution introduced August 6, 1913, and adopted on same date, beg leave to report that we have had the same under consideration and are instructed to report the same back to the Senate with the following recommendation:

That upon hearing said contest, including the testimony of all witnesses offered by the contestant therein, as also the arguments of council, we are of the opinion that A. C. Oliver received the plurality of the votes cast by the electorate of the First Senatorial District; and further, that the said A. C. Oliver is entitled by reason of said plurality to a seat in the Senate of Texas.

We further recommend that this report be adopted and that the same be published in the Journal.

Notice was duly given of a minority report.

McGREGOR, Chairman.

To the Senate of Texas:

We, a minority of your Committee on Privileges and Elections, to whom was referred the contest of C. A. Wheeler against A. C. Oliver for the Senatorial seat from the First District

of Texas, beg leave to submit the following report:

It being admitted by contestant and contestee both that a great many ballots were cast and counted, including all the ballots cast at Douglasville, the home of contestee, upon which the presiding judge did not write his name, as plainly required by law, and that many of the ballots were not numbered as plainly required by law; and, whereas, under the evidence and agreements before us it is impossible to determine who, if anybody, was elected, and we are constrained to believe from said evidence that no legal election was held to fill the vacancy in many parts of said Senatorial District. Therefore, be it

Resolved, That we recommend to the Senate that it decline to seat either the contestee or contestant, but refer the matter back to the people of the First Senatorial District.

BRELSFORD,
WARREN,
TAYLOR,
TOWNSEND,
COLLINS,
JOHNSON,
LATTIMORE,
GREER,
DARWIN,
McNEALUS,
CONNER,
COWELL,
WILEY,
WESTBROOK.

The above committee report was read and Senator Townsend made the point of order on same that it was not in compliance of the resolution referring same to the committee.

The Chair, President Pro Tem. Carter, sustained the point of order.

Senator Townsend moved that the chairman of the Committee on Privileges and Elections be instructed to file a copy of the testimony, etc., in accordance with the resolution providing for referring the matter to the committee, and that same be printed in the Journal, which motion prevailed.

The above reports were read, and Senator Hudspeth moved that the Senate rule requiring committee reports to lie over for one day be suspended, for the purpose of considering this report.

The motion prevailed by the following vote:

Yeas—25.

Astin.	Brelsford.
Bailey of De Witt.	Carter.
Bailey of Harris.	Clark.

Collins.	Nugent.
Darwin.	Real.
Gibson.	Taylor.
Greer.	Terrell.
Harley.	Townsend.
Hudspeth.	Warren.
Johnson.	Watson.
Lattimore.	Wiley.
McGregor.	Willacy.
Morrow.	

Nays—3.

Conner.	Westbrook.
McNealus.	

Absent.

Cowell.

Senator Watson moved that the majority committee report be adopted.

Senator Lattimore moved, as a substitute, that the minority report be adopted.

Senator Brelsford moved the previous question on the pending motions, which motion being duly seconded, was so ordered.

Action recurred on the substitute motion to adopt the minority committee report, and the same was lost by the following vote:

Yeas—12.

Brelsford.	Lattimore.
Collins.	Taylor.
Conner.	Townsend.
Darwin.	Warren.
Greer.	Westbrook.
Johnson.	Wiley.

Nays—14.

Astin.	Hudspeth.
Bailey of DeWitt.	McGregor.
Bailey of Harris.	Morrow.
Carter.	Nugent.
Clark.	Real.
Gibson.	Terrell.
Harley.	Watson.

Present—Not Voting.

McNealus.

PAIRED.

Senator Willacy (present), who would vote "nay," with Senator Cowell (absent), who would vote "yea."

The majority committee report was then adopted.

Senator Watson moved to reconsider the vote by which the majority committee report was adopted and lay that motion on the table.

The motion to table prevailed.

Senator Watson moved that the Chair appoint a committee to escort Senator-

elect Oliver to the President's stand, which motion prevailed.

The Chair appointed Senators Lattimore, Brelsford and Hudspeth as the committee, whereupon Senator Oliver was escorted to the President's stand, at which time the constitutional oath of office was administered him by Lieutenant Governor Mayes. Senator Oliver was introduced to the Senate and spoke briefly.

(Lieutenant Governor Mayes in the chair.)

REPORT OF COMMITTEE ON PRIVILEGES AND ELECTIONS.

The following is printed here by order of the Senate:

IN RE CONTEST OF C. A. WHEELER VS. A. C. OLIVER, BEFORE THE SENATE OF TEXAS ON AUGUST 12, 1913.

The petition of contestant, C. A. Wheeler, was read to the Committee on Privileges and Elections. Upon the reading of said petition contestant stated to the committee that he eliminated therefrom Subdivisions (b) and (c), in paragraph 3 of the petition. Contestant also read to the committee his supplementary statement of ground of contest filed in this suit.

Contestee presented reply to the petition of the contestant and the supplementary reply to the supplementary petition filed by the contestant, also the certificate of election issued by the Secretary of State of the State of Texas on August 6, 1913, certifying that A. C. Oliver was duly elected and accredited Senator from the First Senatorial District of Texas.

The contestant offered in evidence a certificate from Hon. F. C. Weinert, Secretary of State of the State of Texas, dated August 6, 1913, certifying that Lee Tidwell, county judge of Bowie county, Texas, had certified to that department the returns of the special election held on July 19, 1913, throughout the First Senatorial District of Texas for the election of a Senator from that District, showing that A. C. Oliver received 1707 votes, C. A. Wheeler 1683 votes and L. H. Henry received 1198 votes for Senator from the First Senatorial District.

The above named instruments, to wit, notice of contest, petition and supplementary petition, reply and supplementary reply of contestee, and certificate of election of A. C. Oliver by Secretary of State, which are hereto attached marked Exhibits "A," "B," "C," "D," "E" and "F," respectively.

Contestant offered first witness, B. B. Webster.

B. B. Webster, being first duly sworn, testified as follows (examination by at torney for contestant):

Question—Your name is B. B. Webster?

Answer—Yes, sir.

Q.—Where do you live?

A.—In Cass county, at Douglasville, Texas.

Q.—Were you one of the judges of the election held at Douglasville, in Cass county, Texas, on the 19th day of July, 1913?

A.—Yes, sir.

Q.—Do you remember who was the other judge of that election?

A.—There was Mr. McWhorter; he was manager, and myself and Mr. Granberry were clerks, and then there was Mr. R. H. Williams. There were four of us; Mr. Granberry kept the poll list and I kept the ballot box.

Q.—Were you present as one of the officers conducting that election at Douglasville box throughout the entire day while the election was being carried on?

A.—Yes, sir.

Q.—Were the officers and managers of that election sworn at any time during that day?

A.—Yes, sir.

Q.—When, with reference to the opening at the polls at the Douglasville box, were the judges, managers and officers of that election sworn in?

A.—In the afternoon.

Q.—Do you remember how many votes had been cast at that box before the judges and managers of the election and the other election officers were sworn?

A.—I do not know just how many there were; there were a good many, but I cannot say exactly.

Q.—Can you name any circumstance that will enable us to ascertain how many votes had been cast at the time those officers were sworn in as officers of the election?

A.—Not to my own knowledge. Nothing that I can think of now.

Q.—Do you remember any man who voted immediately after you were sworn in?

A.—No, not any man in particular. I don't know that I can say.

Q.—Did the managers and judges of the election take refreshments at noon in the room where the election was being held?

A.—No, sir.

Q.—Where did they go for their refreshments at the noon hour?

A.—Two of us went to the hotel—I went to the hotel and the others live at

the place and they went home, who live there in town.

Q.—What was done with the ballot boxes while you gentlemen went off for refreshments?

A.—It was left on the table that we used in the room.

Q.—In the room where the election was being held?

A.—Yes, sir. The election was held in a room used for a warehouse by Morriss & King.

Q.—Was the door locked when you went off?

A.—Yes, sir.

Q.—Who locked that door?

A.—I did, I think; I am not sure, but I believe I locked it myself.

Q.—Your recollection is that you were the one who locked the door?

A.—Yes, sir.

Q.—What was done with the key until you returned?

A.—Well, I work at the store of Morriss & King, and I lock the door when I leave. I locked the door of the room and carried the key and hung it up where it usually hangs in the store.

Q.—Was that a public place which was open during the day?

A.—Yes, sir.

Q.—Was that key hung in the store building while you went off?

A.—Yes, sir.

Q.—When you returned from your refreshments was that when you took the oath of office as managers of the election?

A.—It was in the afternoon; I don't know exactly what time; I cannot say about that.

Q.—It was after you had gone off and left that key hanging in the store?

A.—Yes, sir.

Q.—You say that Mr. McWhorter was manager of that election?

A.—Yes, sir.

Q.—Do you know whether or not he signed the ballots which were signed in that polling place? If they were signed?

A.—No, he did not sign them.

Q.—You saw the ballots as they were deposited, and then you saw them when they were taken out and counted? Were they signed by anyone?

A.—No, sir; they were not signed by anyone.

Q.—Did Mr. R. B. McWhorter make up in person the returns of that election and sign them officially—make the returns to any of the returning officers of that county—the county judge of that county?

A.—No, he did not do it himself.

Q.—Who signed, if anyone signed his name to those returns?

A.—Well, I signed them. After I got them, I think I suggested that I just sign the judge's name. I asked him, and he said, "All right; just sign my name to them."

Q.—At the time you signed them, was he present?

A.—No, sir.

Q.—Where is Mr. McWhorter now?

A.—I think he is here.

Cross-examination by attorney for contestee:

Q.—Mr. Webster, when you went to dinner and left the boxes in the place where you had been holding the election, you locked the door; now when you went back did you unlock the door?

A.—I believe I did, but I am not certain about that. I think I was the first one to come back from dinner.

Q.—Did you find that the box or poll lists or anything there used by you in said election had been tampered with in your absence?

A.—No, sir.

Q.—Were they tampered with in any way?

A.—No, sir.

Q.—The ballots that were cast were canvassed and counted; were they not?

A.—Yes, sir.

Q.—You conducted that election fairly and honestly in the very best of your information as to how it should have been conducted? As honestly and fairly as sworn officers of election?

A.—Yes, sir.

Q.—Who conducted this election?

A.—Mr. McWhorter was manager, but he was away—he had left word that his mother or some relative was dangerously ill.

Q.—Was the election conducted by you the same as if you had been under oath, conducting it honestly and fairly, conducting it in every particular as to complying with the principles of the law? Were the ballots cast and counted and returned?

A.—Yes, sir.

Q.—You were an adherent of the contestant in that race, were you not?

A.—Yes, sir.

Q.—You had no purpose of any sort in refraining from calling attention to the work that was done? Were the ballots that were cast at Douglassville box in this election counted as they were cast correctly?

A.—Yes, sir.

Q.—And the returns show that the ballots as they were cast for the re-

spective candidates were credited to these candidates?

Q.—Was the place where you placed the key when you went off accessible to the public?

A.—It was inside of the store.

Q.—Anybody could have gotten it?

A.—Yes, anybody could have gotten it, but we had other keys there—crib keys and other things like that.

Q.—It was in the office of the store?

A.—No, it was not in the office. It was in the store to the right of the door; at the place where I kept the keys all the time. Nobody would have been likely to have gotten those keys, but they could have done so.

Q.—Did you have poll lists furnished you by the proper authorities of the qualified voters of that box?

A.—No, sir.

Senator Willacy:

Question—Were the ballots numbered, Mr. Webster? Was each and every ballot properly numbered?

Answer—Yes, sir; I think they were.

Q.—Was the store open during the time you went to dinner?

A.—I will tell you about that. I take my meals at the hotel. There was three of us who stayed in the store who have keys—Mr. Morriss, myself and Mr. Brabham. They both live close to the store; they keep houses themselves, and I take by meals at the hotel. I do not know whether they locked the door of the store or not. I do not know who got back first. Usually I get back first and unlock the store. I do not know whether they locked it that time or not. It is usual at the noon hour for it to be locked; the last one out usually locks the door, and the one who gets back first unlocks the door. They both live a little closer to the store, but they both have families and they take more time at home than I do. I never stay at the hotel, and I get back to the store before they do.

Q.—Were Mr. Morriss and Mr. Brabham in the store?

A.—I do not know whether they were there or not. When we closed at dinner we just hung the key in its regular place and came back when we had dinner.

Q.—Do you know whom Mr. King supported?

A.—He voted for Mr. Wheeler.

Q.—Whom did Mr. Morris support? Did he vote for Mr. Wheeler?

A.—No, sir; he voted for Dr. Oliver.
Senator Brelsford:

Question—Which of the election judges voted for Dr. Oliver?

Answer—Three of us voted for Wheeler and one for Oliver, so I understood it, but I could not swear to that.

Q.—You stated that when you went back to the polling place you found the status of the poll lists and ballots just as you had left them—they had not been disturbed or interfered with in any way?

A.—No, sir.

Q.—Will you state the total vote cast at that election for Senator from the First District?

A.—Oliver 118, Wheeler 18, and Henry 2; total 138.

Senator Lattimore:

Question—Mr. McWhorter was presiding judge, was he not?

Answer—Yes, sir.

Q.—You say nobody signed those ballots?

A.—No, sir; they were not signed.

Q.—No presiding judge wrote his name on the ballots?

A.—No, sir.

Senator Townsend:

Question—Did any of the voters present poll tax receipts? What percentage of them presented receipts?

A.—Some of them did not. A good many of them, but I do not know just what per cent did not present receipts.

Q.—Why did you not swear these?

A.—Some of them were perfectly responsible men.

Q.—Did you swear negroes?

A.—No, they did not swear the negroes—not all of them.

Q.—As a matter of fact you know all the voters at your precinct? They know every man of them and you know that they were qualified voters?

A.—I do not know about all of them.

Q.—How about those you would question?

A.—I do not know that I understand your question.

Senator Nugent:

Question—I believe you stated that Mr. Brabham, as you understood it, voted for Mr. Wheeler?

Answer—I think so.

Q.—Is it not true that Mr. Brabham lives very close to the warehouse?

A.—Yes, sir.

Q.—Do you not think that if he lived right close he would have been in position in all probability to have seen anybody that would have gone in and tampered with anything left there; and he was a Wheeler man, as I understand it?

A.—Yes. I understand he was a Wheeler man. I suppose he could have seen anyone who went in the warehouse. I don't know.

W. R. Warren, being first duly sworn, testified:

Examination by counsel for contestant:

Question—What is your name?

Answer—W. R. Warren.

Q.—Where do you live?

A.—In Douglasville, Cass county, Texas.

Q.—Did you vote at the election held at Douglasville, in Cass county, on the 19th day of July, 1913, for the purpose of electing a Senator from that district?

A.—I did.

Q.—What time of day did you vote at that election?

A.—It was some time in the afternoon. I do not know exactly what hour.

Q.—Were you present when the judges and clerks of that election took the oath of office?

A.—Yes, sir.

Q.—With reference to the time that they took the oath of office when did you vote, before or after?

A.—I voted before.

Q.—What time elapsed after you voted before they were sworn in? I understand that they swore them in immediately after you voted?

A.—Yes, sir.

Senator Willacy:

Question—You voted as you desired to vote, and in the way you wished?

Answer—Yes, sir.

The next witness called was L. L. Harper, county clerk of Cass county, he having charge of the ballot boxes, tally sheets and poll lists used at Douglasville during said election. After some discussion it was agreed by counsel for both sides that it was not necessary to bring voting boxes before the committee, a written agreement having been entered into by said counsel in regard to voting precincts involved in this contest, a copy of which agreement is hereto attached and marked Exhibit "G" for identification.

L. L. Harper, being first duly sworn, testified as follows:

Examination by counsel for contestant:

Question—Your name is L. L. Harper?

Answer—Yes, sir.

Q.—You are the county clerk of Cass county, are you not?

A.—Yes, sir.

Q.—This paper that I hand you

(handing paper to witness), what is this?

A.—It is the return on the poll list for the special election at Douglasville on July 19, 1913.

Q.—I wish you would see if you can read the name, W. R. Warren, appears to have voted on that.

A.—Yes, sir.

Q.—What is the number of his vote?

A.—No. 99.

Senator Morrow:

Question—Is there any indication that that poll list has been tampered with?

Answer—No, sir; there is not; I will swear that it has not been since it has been in my possession.

Q.—When you received the poll list was there any indication that it had been tampered with? Did you notice anything to create suspicion?

A.—No, sir.

Q.—Has any assertion been made by anyone that either of the men on that poll list were other than the names of some voter who had gone to the voting box to cast his vote?

A.—Do you mean before or at the time that I received this return?

Q.—At the time or since that time have you heard anything—any report that there was any name on that list of any men who had not gone to that box and cast his vote?

A.—It seems like I have, but I don't know of my own knowledge; I heard a lot of talk at the time, but I do not know anything about that.

Q.—I mean the names that are on that list of men who did not vote?

A.—No, sir; at no time. That list only includes the names of those voters who went to the box and voted according to the facilities that were provided.

Senator Westbrook:

Question—With reference to the election boxes, were all those boxes metal boxes as required by law, or were any of them shoe boxes or something of that kind?

Answer—Yes, sir.

On motion of Senator Willacy, the committee adjourned to meet again at 2 p. m.

Committee on Privileges and Elections met at 2 p. m., pursuant to adjournment.

Present: Astin, Bailey of Harris, Bailey of DeWitt, Brelsford, Carter, Clark, Collins, Conner, Cowell, Darwin, Gibson, Greer, Harley, Hudspeth, Johnson, Lattimore, McGregor, McNealus, Morrow, Nugent, Real, Taylor, Terrell,

Townsend, Warren, Watson, Westbrook, Wiley and Willacy.

It was agreed by contestant that no more witnesses would be called, and that the votes cast and counted for contestant and contestee in the boxes contested are as given in the agreement hereto attached, marked Exhibit "G."

EXHIBIT "A."

SIMPLE RESOLUTION.

Whereas, Hon. C. A. Wheeler of Texarkana, Texas, has filed a contest with this body contesting the election of the Hon. A. C. Oliver as Senator from the First Senatorial District of Texas, and as a basis for said contest alleges matters of serious irregularity in said election, of such a nature demanding an immediate investigation by this body; and

Whereas, It is the sense of this body that justice be meted out to the parties and that such person be seated who may have been elected by the qualified voters of said First Senatorial District of Texas; therefore, be it

Resolved by the Senate, That the notice and statement of contest by the Hon. C. A. Wheeler and the other papers pertaining thereto be referred at once to the Committee on Privileges and Elections of the Senate, and that said committee proceed without delay to fix a time for the hearing of said contest, and, after due notice to the parties thereto, investigate the issues between said parties, hearing all the legal evidence that may be presented to said committee and at the earliest practicable date report their conclusions of law and fact in respect to said case to this body, accompanied by all the papers in the case and the evidence taken therein, with such recommendation as may to them seem proper, to the end that the Senate may act upon this contest at the very earliest practicable date possible.

LATTIMORE,
BRELSFORD,
JOHNSON,
COWELL,
GIBSON,
CONNER,
TOWNSEND,
WESTBROOK,
DARWIN,
WILEY,
TAYLOR,
GREER,
WARREN,
MCNEALUS,
COLLINS.

EXHIBIT "B."

Austin, Texas, August 4, 1913.

To Hon. A. C. Oliver:

You will please take notice that it is my intention and purpose to and that I shall contest your right to the office of Senator from the First Senatorial District of the State of Texas, it being my contention that you were not legally elected and have not been legally elected to said office at the election held throughout said District on July 19, 1913, but that I was, at said election, legally elected to the office of Senator from the First Senatorial District of Texas.

I herewith hand you a copy of my original petition, upon which I base my contest and upon which I shall offer evidence.

Respectfully,
C. A. WHEELER.

I hereby certify that on the 4th day of August, A. D. 1913, I delivered to A. C. Oliver in person in the city of Austin, Travis county, Texas, a true copy of the above and foregoing notice, together with a true copy of the petition mentioned in said notice.

C. A. WHEELER.

IN RE CONTEST OF THE ELECTION OF A. C. OLIVER AS SENATOR FROM THE FIRST SENATORIAL DISTRICT OF TEXAS.

To the Honorable, the Senate of Texas:

Your petitioner, C. A. Wheeler, appears herein for the purpose of contesting before this Honorable Body the election of A. C. Oliver as Senator from the First Senatorial District of Texas, and as his grounds for said contest doth allege and is prepared to prove the following:

1. Your petitioner and the said A. C. Oliver and Lewie H. Henry, Esq., were candidates in a special election called by the Governor of Texas to be held in the various voting places in the First Senatorial District of Texas on the 19th day of July, 1913, to fill the vacancy occasioned by the resignation of Horace W. Vaughan from this Body. Said election was called, and under the law should have been conducted in accordance with the election laws of the State of Texas, and your petitioner was entitled to have his candidacy tested and decided in accordance with the terms and provisions of said laws.

2. Among the voting places in said district is Douglasville, in the county of

Cass, said town being the home of A. C. Oliver, contestee herein. There were 138 votes polled at said box during the said election, of which number 118 were counted by the judges for the contestee herein and 18 for your petitioner and 2 for Lewie H. Henry. With the exception of the said box, your petitioner in said district received 1667 votes and contestee herein received 1591 votes and Lewie H. Henry received 1187 votes. Your petitioner, therefore, unless defeated by the votes cast in the said Douglasville box, received a majority of the legal votes cast in said election, and has been duly and legally elected to the office of Senator from said district.

3. Your petitioner shows that R. B. McWhorter was the presiding judge and B. B. Webster and were the other judges at said box; that the votes cast in the said Douglasville box were not legal votes and none of same should be counted under the law either for or against any of the candidates in said election, because:

(a) Neither the said presiding judge nor any of the other judges before opening the polls or at any time thereafter until 80 votes had been received and cast took the oath of affirmation as officers of election and as provided by law. Your petitioner is unable to give the names of the voters who cast the first 80 votes counted or for whom they were voted, for want of knowledge, but he avers the facts to be that the votes cast in said box numbered 1 to 80, inclusive, were cast at a time before the judges had taken the oath of office and when, under the law, they had no right to receive or count them.

(d) The said officers of the election and each of them at the noon hour on the said election day, to wit, July 19, 1913, left the voting place, the box containing the ballots that had been cast, the unused ballots, and the entire equipment and supplies and paraphernalia of the election in the room where said election was held for a period of one hour or more, locking the door to same, during which they partook of refreshments. Said refreshments were taken during the hours provided by law for voting and before the canvass of the votes had been taken, but they were not taken at the said poll place and were not taken in view of the ballot box, but they were taken at remote and distant places out of the view and entirely removed from said box and voting place; nor did the said judges partake of refreshments at the same place, but repaired to their

several homes and assembled at a later time and reopened the voting place.

(e) When the ballots thus cast had been counted, the managers of the said election did not in person make out triplicate returns of the same and certify them to be correct and sign them officially in the manner provided by law. The presiding judge at said box did not sign said return at all, but gave B. B. Webster, one of the judges, authority to sign his name, and the signature that appears upon said returns on which the certificate of contestee's election was issued is not the genuine signature of R. B. McWhorter, but was signed by B. B. Webster at the request and instance of the said R. B. McWhorter during his absence.

(f) None of the ballots cast and counted in said voting box were signed by the presiding judge thereof, nor were they, as petitioner is informed and believes, numbered. He makes the charge upon information and belief as to the numbering of said ballots, but alleges the fact to be that not one of the ballots used in said election at said box bore the signature of the presiding judge, R. B. McWhorter, and that all of the ballots so cast despite the fact that they were not signed as provided by law and despite the fact that the law expressly provides that the judges shall count no ballots which do not bear the signature of the presiding judge or which are unnumbered, all of said ballots were counted with the result that 118 of same were counted as aforesaid in favor of contestee herein and 18 in favor of your petitioner.

4. Your petitioner shows that for the reasons mentioned in the preceding paragraph all of the ballots cast in the said Douglasville box were illegal and unlawful votes and should not have been counted for any of said candidates. That except for such unlawful and illegal votes, your petitioner has a majority of the votes cast by the qualified voters of the First Senatorial District of Texas, and under the law is entitled to a seat in this body and all the privileges and emoluments and benefits of the said office.

5. He therefore files this his contest before this honorable body, attaching hereto the certificate of Hon. Lee Tidwell, county judge of Bowie county, Texas, showing that the 4th day of August, 1913, is the return day of the said election; that is to say, the day on which the votes in said election were

counted, that a certificate of election was issued to contestee herein upon said date. Your petitioner also attaches a copy of a notice of this contest served upon the contestee herein on the — day of August, 1913, showing your petitioner's purpose and intention to contest the election herein referred to, which notice was delivered to contestee in person.

6. Wherefore, your petitioner prays that this honorable body hear this contest in the manner provided by law, and that he be declared entitled to a seat in this honorable body as Senator from the First Senatorial District of Texas, and be declared duly and legally elected as such.

C. A. WHEELER,
Contestant.

I, C. A. Wheeler, contestant named in the above and foregoing petition, state upon my oath, that the facts alleged in said petition are true to the best of my knowledge and belief.

C. A. WHEELER.

Sworn to and subscribed before me this the 4th day of August, A. D. 1913.
(Seal) O. W. HARDY;

Notary Public in and for Travis County, Texas.

EXHIBIT "C."

In the Senate of the State of Texas.

C. A. Wheeler, Contestant, vs. A. C. Oliver, Contestee.

Now comes the contestant in the above entitled cause and files this his supplemental statement to his original statement of contest heretofore filed, and as additional reasons why his contest should be sustained alleges and shows to the Senate as follows:

That among other voting boxes or precincts in Cass county at which elections were held on July 19, 1913, for the purpose of electing a Senator from the First Senatorial District of Texas, were the following voting boxes cast: Galloway, Cusseta, Bloomburg, Atlanta and Cass.

That at said election held in the above mentioned voting boxes this contestant and the contestee received votes as follows:

At Galloway: Contestant, 19; contestee, 30.

At Bloomburg: Contestant, 16; contestee, 21.

At Cass: Contestant, 4; contestee, 23.

At Atlanta: Contestant, 115; contestee, 132.

At Cusseta: Contestant, 19; contestee, 30.

That at all of the voting boxes above named, all of the votes cast were void and illegal and should not be counted for either the contestant or the contestee because at said Galloway box the judge of the election failed and neglected to, and did not number the ballots voted at said box as is required by law, and at each and all of the other voting boxes above mentioned, the judge of the election engaged in holding the same, failed to sign his name upon the ballots cast as is required by law.

That if the ballots cast of the above voting boxes be rejected and not counted in estimating the result of said election throughout said district, this contestant's majority of the legal votes cast at said election in said district will be greatly increased over and above that stated in his original statement of contest filed herein.

Wherefore, contestant prays that the above illegal ballots be rejected and not counted in estimating the result of said election in said district, and also prays as in his original statement of contest filed herein.

C. A. WHEELER,
Contestant.

Sworn to and subscribed before me this the 12th day of August, A. D. 1913.

(Seal) A. B. CATES,
Notary Public, Travis County, Texas.

EXHIBIT "D."

IN RE CONTEST OF C. A. WHEELER
OF THE ELECTION OF A. C.
OLIVER AS SENATOR FROM
THE FIRST SENATORIAL
DISTRICT OF TEXAS.

To the Honorable, the Senate of Texas:

Now comes A. C. Oliver, contestee herein, and for reply to the notice of and petition contesting his election as the Senator from the First Senatorial District of Texas at the election held therefor on July 19, 1913, filed herein by C. A. Wheeler, contestant:

(1)

Contestee demurs to Subdivision (a) of paragraph 3 of contestant's petition herein, and says same is wholly insufficient in law to require answer or proof, and furnishes no ground or reason in law why such votes should not be counted as legal ballots; whereof he prays judgment.

(2)

Contestee demurs to Subdivision (d) of paragraph 3 of contestant's petition herein, and says that same is wholly insufficient in law to require an answer or proof, and set forth no facts in law authorizing a refusal to count such votes as legal ballots; whereof he prays judgment.

(3)

Contestee demurs to Subdivision (e) of paragraph 3 of contestant's petition herein, and says same is wholly insufficient at law to require answer or proof, and sets forth no reasons in law why such votes should not be counted as legal ballots; whereof he prays judgment.

And for answer, if required to answer, contestee denies all and singular the allegations in said petition of contestant and demands strict proof.

And further answering herein contestee says that at the election duly ordered and held on July 19, 1913, in the several counties composing the First Senatorial District of Texas for the election of Senator from said district there were three candidates for said office, to-wit: L. H. Henry, C. A. Wheeler and this contestee, A. C. Oliver, each of whom received in the several counties composing the said Senatorial District the following votes:

In Bowie county—

L. H. Henry.....	— votes
C. A. Wheeler.....	— votes
A. C. Oliver.....	— votes

In Cass county—

L. H. Henry.....	— votes
C. A. Wheeler.....	— votes
A. C. Oliver.....	— votes

In Marion county—

L. H. Henry.....	— votes
C. A. Wheeler.....	— votes
A. C. Oliver.....	— votes

In Morris county—

L. H. Henry.....	— votes
C. A. Wheeler.....	— votes
A. C. Oliver.....	— votes

giving to each of said candidates a total vote as follows:

L. H. Henry.....	1198 votes
C. A. Wheeler.....	1683 votes
A. C. Oliver.....	1707 votes

giving him a plurality of twenty-four (24) votes in said district at said election.

That thereafter in accordance with

law the returns of said election were duly made and canvassed and by the respective county judges of said district certified to Hon. Lee Tidwell, county judge of Bowie county, Texas, who duly canvassed the returns and certified the same to the Secretary of State on August 4, 1913, and in accordance therewith the Honorable Secretary of State on the 6th day of August, 1913, certified that your contestee having received the largest number of votes cast for any one candidate according to the returns made to his department is the duly elected and accredited Senator from the First Senatorial District, having received a majority of twenty-four (24) votes over the next highest candidate, which certificate is on file with this Honorable Body.

For further answer herein this contestee states that at said election held July 19, 1913, the duly appointed officers of the Douglasville voting box in Cass county organized and held said election and made returns thereof as provided by law. That said election was fairly held and thereat the legal voters residing in said voting precinct cast their ballots according to their choice and desires, and there was so far as contestee knows no illegal voting and no fraud, or illegal acts there on the part of the officers of said election or any candidate for Senator there voted for.

That the parties named in the petition of the contestant herein voting at said box are according to the information of this contestee legally qualified voters in said voting precinct, and had a right to vote thereat.

Further answering herein, contestee says that he has not sufficient information to say whether or not the acts complained of as to the officers of said election leaving the voting place and the ballots and supplies used at said election for the purpose of partaking of refreshments are true, but contestee says that if same was done same was not done fraudulently or for any illegal purpose, and that such action of the election officers, if same occurred, as alleged, did not prevent any legal voter residing in said precinct from casting his ballot at said election.

Contestee further answering says that the ballots cast at said voting box in Douglasville were certified by the managers and officers of said box, and the same was duly returned, counted and canvassed by the commissioners court of Cass county, Texas, in accordance with law. That contestee has no means of knowing whether or not said ballots were

numbered or whether or not the presiding judge of said election wrote his name upon said ballots as provided by law, but says that the officers of said election counted and returned 138 legal votes as being cast at said election, of which 118 were cast and counted for this contestee, 18 votes for contestant, C. A. Wheeler, and 2 votes for L. H. Henry. That said votes were honestly and fairly cast by legal voters in said voting precinct, and said election was honestly and fairly conducted, counted and returned by the officers and managers of said election at said box, and no fraud or dishonesty, or dishonest or fraudulent motives actuated the officers of said election at said voting box in the conduct thereof, and if any act or thing was omitted by them in the conduct of said election same was inadvertently done and without purpose or motive of in any way depriving voters of said election precinct of their lawful ballot or the candidates for Senator at said election of the legal ballots cast for them, respectively.

Wherefore contestee says that he has been duly and legally elected and accredited Senator from the First Senatorial District in the manner provided by law, and prays that he be declared entitled to a seat in this Honorable Body as Senator from the First Senatorial District of Texas, and be declared duly and legally elected as such, for costs hereof, etc.

A. C. OLIVER.
Contestee.

I, A. C. Oliver, contestee named in the above and foregoing reply, state upon my oath that the facts alleged in said reply are true to the best of my knowledge and belief.

A. C. OLIVER.

Sworn to and subscribed before me, this 12th day of August, A. D. 1913.

(Seal.)

A. B. CATES,

Notary Public in and for Travis county, Texas.

I hereby certify that on the 12th day of August, A. D. 1913, I delivered to C. A. Wheeler in person in the city of Austin, Travis county, Texas, a true copy of the above and foregoing reply.

A. C. OLIVER,
Contestee.

EXHIBIT "E."

In re Contest of C. A. Wheeler of the election of A. C. Oliver as Senator from the First Senatorial District of Texas: To the Honorable Senate of Texas:

Now comes the contestee, in the above

matter and in reply to the supplemental statement filed by contestant herein, says:

That in the following named boxes the votes returned by the election officers were numbered but not signed, namely:

Roach box, Marietta box, Cusseta box, Bryan's Mill box, Lanier box, Cass box, Bloomburg box, Atlanta box, and that at Galloway box the ballots returned by the officers of said box were not numbered but were signed by presiding officers.

That in Marion county the returns show as follows:

At Lodi box, where twenty (20) votes were cast, there was no signature of the presiding officer and no number on said ballots, and at Mims Chappel box, in said county, there were sixteen (16) votes cast, of which one ballot was numbered only, and the remaining ballots neither numbered or signed; at Kellyville the ballots cast and returned were numbered but were not signed by the presiding officer.

That at each and all of said boxes the elections were fairly and honestly held by the officers thereof and no frauds were perpetrated therein as to any candidacy, but the errors in marking and returning said ballots, if any, were the results of inadvertence and lack of information of the officers holding said election.

That contestee has not had time to examine the ballots and returns in Morris and Bowie counties, but alleges the fact to be that at each and every voting precinct in the several counties composing the First Senatorial District, the ballots of the legally qualified voters were honestly and legally cast and the same received, counted and returned and the election conducted by the managers of said voting boxes fairly and honestly and the returns thereof as certified to this honorable body should not be disturbed. That if said boxes are to be thrown out, then that all boxes and ballots and returns be examined, and if this is done contestee will be shown to have a plurality of legal votes over contestant.

A. C. OLIVER,
Contestee.

EXHIBIT "F."

The State of Texas,
Department of State:

I, F. C. Weinert, Secretary of State of the State of Texas, do hereby certify

that Judge Lee Tidwell, county judge of Bowie county, Texas, has certified to this department the returns of the special election held on July the 19th, 1913, in the First Senatorial District of the State of Texas to select a Senator from the First Senatorial District to succeed the Hon. Horace W. Vaughan, resigned. That the result of said election shows that Hon. A. C. Oliver received 1707 votes, Hon. C. A. Wheeler 1683 votes, and Hon. L. H. Henry 1198 votes; and I do hereby certify that Hon. A. C. Oliver, having received the largest number of votes cast for any one candidate, according to the returns made to this department, is the duly elected and accredited Senator from the First Senatorial District, having received a majority of twenty-four votes over the next highest candidate.

In testimony whereof, I have hereunto signed my name officially and caused to be impressed hereon the seal of State at my office in the city of Austin, Texas, this the 6th day of August, A. D. 1913.
(Seal) F. C. WEINERT,

Secretary of State.

EXHIBIT "G."

In the Senate of Texas.

C. A. Wheeler, Contestant, vs. A. C. Oliver, Contestee.

It is agreed that votes were cast and counted for the contestant and contestee in the following voting boxes in Cass county at the election of July 19, 1913, as follows:

At Douglasville: Contestant, 18; contestee, 118.

At Cass: Contestant, 4; contestee, 23.

At Bloomburg: Contestant, 16; contestee, 21.

At Atlanta: Contestant, 115; contestee, 132.

At Cusseta: Contestant, 19; contestee, 30.

At Galloway: Contestant, 21; contestee, 25.

At Roch: Contestant, 22; contestee, 13.

At Marietta: Contestant, 19; contestee, 16.

At Lanier: Contestant, 37; contestee, 37.

At Bryan's Mill: Contestant, 43; contestee, 34.

At Douglasville box all of the ballots were numbered, but none of them were signed by the judge or manager of the election.

That at the Galloway box all of the ballots were signed by the judge, but none of them were numbered.

That at the Cass, Atlanta, Cusseta, Bloomburg, Roach, Marietta, Lanier and Bryan's Mill boxes the ballots were properly numbered, but were not signed by the judge.

W. S. THOMAS,

Attorney for Contestant.

ROLLIN W. ROGERS,

Attorney for Contestee.